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United States District Court

MAR 14 2011

Northern District of Georgia

For the

JAMES N. HATTEN, CLERK

By: 

TPI Holdings, INC., et al.

Plaintiff

v.

Civil Action No. 1:10-cv-4091

Rudy Schellenberger

Defendant

United States District Court,

Motion to dismiss case against Rudy Schellenberger

Based on the plaintiff's complaints not being valid I am asking the court to dismiss the case against me Rudy Schellenberger

I plead not guilty of the following, U.S.C Sections 1051-1127, 15U.S.C. Sections 1125(d)—trademark infringement, cyber squatting and unfair competitions

Trademark infringement: I followed the proper steps to receive my trademark for the United States Trademark Office. The plaintiff has not trademarked the word trader and there are many companies in the US with the name trader, (example autoracingtrader.com). Another example would be companies with the name King (Burger King, Tire King, and Mattress King) which are not confusing. Yes our websites are both classified sites but in no way are we misleading customer or confusing customers in regards to our site. MXTrader is a motocross classified website targeting a specific industry in the US and Canada.

Cyber squatting: I have the US Trademark for MX Trader and own the domain MXTrader.net. I have never contacted the plaintiff to purchase the domain name from me.

Unfair Competition: MX Trader does not directly compete with any of the plaintiff's classified sites. We target a specific industry (motocross) and provide a service in which enthusiast can buy and sell new and used motocross items.

Over the past two years I have invested my families saving into MX Trader and have also helped individuals in the MX community to pursue there dreams as professional athletes. Currently we sponsor a professional racer in the supercross series. Due to our marketing strategy we have been on CBS television in April of 2010 and this year our racer has been featured on Speed Channel three times in the past 4 weeks. We have developed a brand in the motocross community and would like to continue to support a sport and community that I have been involved in since 1984. The courts consideration to dismiss the case is greatly appreciated.

I followed the proper procedures to register my trademark in question MX Trader in January 2009. The trademark serial # is 77648828

Thank you,

Rudy Schellenberger
159 Liberty Farm Blvd.
Lexington, SC 29073